

November 4, 1999

STATEMENT OF REP. EDWARD J. MARKEY (D-MA)
HOUSE FLOOR CONSIDERATION OF THE CONFERENCE REPORT ON S. 900
NOVEMBER 4, 1999

I rise in opposition to the conference report.

We now appear to be on the eve of breaking down the Glass-Steagall walls that long have restricted or limited affiliations between banks, securities firms, and insurance companies and allow these financial services institutions to merge and affiliate with one another.

I support this objective. It makes sense in light of the globalization of the economy and rapid pace of technological change.

But as the Glass-Steagall walls are torn down, we simultaneously need to erect new privacy walls to protect consumers from harm. This conference report fails to erect those strong privacy walls. Instead, it creates porous privacy barriers riddled with loopholes.

We have failed in this bill to strike the proper balance - the balance between what the big boys wanted and what average Americans expect. This bill gives so much to the financial industry. And so little is given in return.

We asked to modernize the new financial services regulatory structure for poor people to democratize access to capital in low-income and minority communities. What we got was language that weakens CRA exams, opens CRA groups to harassment and intimidation, and eliminates House passed divestiture and civil penalties for a bank holding company that fails to maintain a satisfactory CRA rating.

We asked to modernize privacy protections for average American families, so they would have the right to protect themselves if they didn't want their checks, their credit card charges, their insurance records, their brokerage information sold or shared with other companies. What we got was a sham privacy fig leaf.

Why is the privacy issue so critical to this legislation?

Under this bill, we allow securities, insurance companies, and banks to merge. The resulting conglomerates will have virtually unprecedented access to our most sensitive personal and financial information, and they will be largely free to share this information with their new affiliates or even sell it to outside companies.

These companies tout the "synergies" that they say will result. We just wanted to take the "sin" out of synergies by giving consumers the ability to protect their families' privacy.

We asked for strong privacy protections, because we know that while there are tremendous new opportunities for innovation, there is also a dark side to cyber-finance. And some institutions clearly are tempted by the dark side and are moving from being "privacy keepers" to being "information reapers." And if a family doesn't want all the brokers or insurance agents to be able to rifle through their checks and their credit card charges, or have their bankers pour through their brokerage records or insurance medical examinations, they should be able to say NO.

Supporters of S. 900 - the Financial Services Bill - would have us believe that the House-Senate Conference strengthened the privacy provisions. That's not true.

Instead of ensuring that consumers receive the strongest consumer privacy protections possible, a majority of the conferees sided with the financial services industry and against consumers. They voted against amendments to provide consumers with either a right to "opt-in" or "opt out" of having their financial records transferred to affiliated and unaffiliated parties.

The limited third party opt-out they did approve is subject to a giant loophole: consumers get the right to say "No" only if a third party receiving their personal information is not acting as agent for their financial institution or is not another financial institution that has entered into a joint marketing agreement with their financial institution. This loophole swallows the rule and renders the third-party opt-out virtually meaningless.

Other exemptions and limitations further narrow the scope of those who would receive the protections afforded under the bill. The resulting conference report will not protect consumer privacy, and it does not merit passage.

Some have pretended that we haven't been able to fix the privacy provisions because they are "too new" to fully understand. But the fact is that we are old hands at protecting privacy. Congress has declared many times that the party who controls someone's privacy records has to get explicit permission if they want to sell information about:

- tax returns;
- drivers licenses;
- video cassette rentals;
- cable TV viewing habits;
- telephone call records; and,
- where you are when you're on a cellular phone.

Why should your privacy get less protection than your video cassette rentals, your cable TV viewing habits, or your telephone call records?

Why the double standard?

What makes the banks so special, so important, that they get the keys to the gold mine, and all consumers' get is the shaft?

Yes, let's promote increased commerce and competition in the financial services industry by repealing Glass-Steagall. But we let's make sure that we have commerce with a conscience.

Under this bill, a huge bank holding company is required to disclose to consumers what their privacy rights will be. That's going to be a very short notice.

Consumers can't say "No" to affiliate sharing. They can't say "No" to financial profiling by telemarketers hired as agents of the bank. They can't say "No" to sharing with any other financial institution with which the bank has a joint agreement.

What does that leave? Here it is right here. Here is the notice consumers will get:

"PRIVACY NOTICE: YOU HAVE NO PRIVACY RIGHTS."

In reality, providing a right to say NO only for certain types of third party sharing and not for affiliate sharing is like legalizing embezzlement - as long as the heist is an "inside job," its not considered theft when they steal your secrets.

This conference report does not give the public the privacy protections every American has the right to expect and deserve.

Back at the beginning of the 17th Century William Shakespeare wrote:

*"Who steals my purse steals trash; 'tis something, nothing ;
Twas mine, 'tis his, and has been a slave to thousands;
But he that filches from me my good name
Robs me of that which not enriches him,
And makes me poor indeed."*

And remember, when you lose your purse, your car or your stereo, you might get it back - but when you lose your privacy, it is gone forever.

If we pass this bill today, we will be inviting a wholesale assault on the American public's privacy - their good name - and denying the public the simple means to defense themselves that we have provided in other areas. That simple defense is the right to say "No."

And that will make every consumer and every American, much poorer, indeed.

So, I support financial services reform. And I support the repeal of Glass-Steagall. But if the price of passing a bill is that we fail go close the gaping privacy peepholes now riddling our financial services structure, I say that the price is simply too high.

Let's defeat this conference report today.

Let's force the Committees to come back with a bill that gives us commerce with a conscience.

And when the industry threatens to kill any bill that gives consumers the right to say "No", we shouldn't be capitulating to their demands.

We should tell them, "If you don't care enough to guarantee the privacy of your consumers, then Congress doesn't care about you."

Vote "No" on the conference report.